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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,377	08/28/2000	Sergey Matasov		9553

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01/31/2002

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EXAMINER

LEUBECKER, JOHN P

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 01/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/509,377

Applicant(s)

MATASOV, SERGEY

Examiner

John P. Leubecker

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

Art Unit: 3739

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show many elements described and enumerated in the specification (i.e., light and image transmission elements, eyepiece 1, everted part of the invaginator 4, rings 8,9, etc.). Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: the specification fails to include section headings (MPEP 601).

Appropriate correction is required.

3. 35 U.S.C. 112, first paragraph, requires the specification to be written in "full, clear, concise, and exact terms." The specification is replete with terms which are not clear, concise and exact. The specification should be revised carefully in order to comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or verbose terms used in the specification are: "intractor", "sylophone", "manual extraction and intraction", "control branch", "areas 28", and "condoms".

Art Unit: 3739

4. The disclosure is objected to because of the following informalities: numerous spelling and grammatical defects.

Appropriate correction is required.

5. A substitute specification excluding the claims is required pursuant to 37 CFR 1.125(a) because of the numerous defects and confusing language as pointed, in part, above.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

Claim Objections

6. Claims 5-10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5-10 have not been further treated on the merits.

Art Unit: 3739

7. Claims 1 and 3 are objected to because of the following informalities: in claim 1, the dashes "--" in line 2 should be deleted; in claim 3, "at proximal end" in line 2 should be --at a proximal end". Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, it is unclear as to whether the transition phrase "incorporating" is open-ended or close-ended. This ambiguity might be irrelevant if this claim is actually intended to be in Jepson form (the phrase "differs in that..." in line 7 implies that the preceding language could be preamble and the improvement is what follows). However, the claim format is not clear. Term "control branch" is ambiguous (not shown in drawings or adequately described in specification). Phrase "inwardly light and image transmission elements" ambiguous with respect to the word "inwardly". Terms "the mechanism for bending" and "the distal end" lack antecedent basis. The phrase "*but* externally a spring..." is ambiguous (emphasis added).

As to claim 2, phrases "differs in that", "different forms short layers" and "narrowings of an external and widenings of internal diameters" are indefinite.

As to claim 3, phrases "differs in that" and "at that the proximal seal...at the distal end of the shell" are indefinite. Terms "the unverted end" and "the distal part" lack antecedent basis. It is unclear whether the "tip" (line 4) is the same as the "tip" in claim 1. If so, it should refer back to such.

Art Unit: 3739

As to claim 4, phrase "differs in that" is indefinite. Terms "the areas for air-tight fixation", "condoms' ends", "the larger one", "the cavity of the proximal seal", "the smaller" and "the condoms' cavity" lack antecedent basis.

Claim Rejections - 35 USC § 102 and 103

9. Due to the nature and severity of the defects in the specification and claims, prior art could not be applied to the claims. However, prior art is cited below that appears to be relevant to certain structure in the disclosure.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Chin (U.S. Pat. 5,613,947)

Rolland et al. (U.S. Pat. 5,993,427)

Mix et al. (U.S. Pat. 5,236,423)

Leighton et al. (U.S. Pat. 4,321,915)

Kramann (U.S. Pat. 4,615,331)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (703) 308-0951.

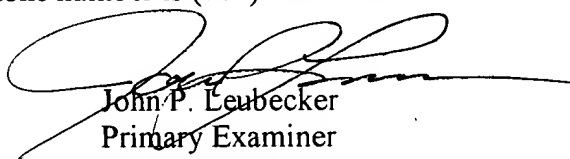
The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (703) 308-0994. The fax phone numbers for

Art Unit: 3739

the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



John P. Leubecker
Primary Examiner
Art Unit 3739

jpl
January 28, 2002